



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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5-3-00
JProctor

In re application of:

STEVEN M. UTTER ✓

Serial No.: 09/358,280 ✓

Filed: July 21, 1999

For: PORTABLE MIST COOLING
DEVICE

)
) Examiner: K. Weldon

)
) Group Art Unit: 3752

)
) Docket No. MISTY-52064

TERMINAL DISCLAIMER TO OBVIATE DOUBLE PATENTING REJECTION

37 C.F.R. 1.321(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The petitioner, Steven M. Utter, is the owner of 100 percent interest in the instant application, serial no. 09/358,280, filed July 21, 1999, which is a continuation of serial no. 09/042,827, filed on March 17, 1998 for PORTABLE MIST COOLING DEVICE, which is a continuation of serial no. 08/802,072 filed February 19, 1997, now Patent No. 5,775,590, which is a continuation of serial no. 08/664,302 filed June 10, 1996, now Patent No. 5,620,140. To the best of petitioner's knowledge and belief, title in the instant application, serial no. 09/358,280, is in petitioner.

Serial No.: 09/358,280

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,620,140, issued April 15, 1997, which is also owned by petitioner. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior Patent No. 5,620,140 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

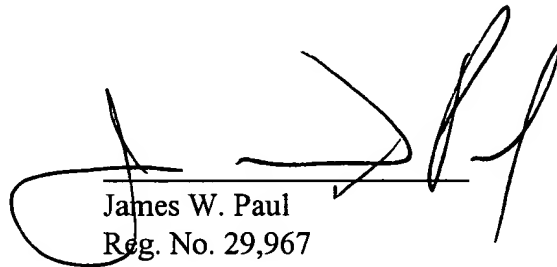
In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record.

Serial No.: 09/358,280

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

April 21, 2000
Date



James W. Paul
Reg. No. 29,967